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REVIEW CONFERENCE OF THE UNITED NATIONS CONVENTION
ON A CODE OF CONDUCT FOR LINER CONFERENCES
Resumed session
Geneva, 21 May 1991
Agenda item 12

CONSIDERATION OF FINAL DOCUMENTS AND RESOLUTIONS

Resolution II */

The Review Conference on the United Nations Convention on a Code of Conduct for Liner Conferences,

Having convened in Geneva from 31 October to 18 November 1988 and from 21 May to 7 June 1991, pursuant to Article 52, paragraph 1, of the United Nations Convention on a Code of Conduct for Liner Conferences, and having reviewed the working and implementation of the Convention,

Noting that the Convention constitutes a widely accepted flexible international legal instrument, taking into account the special needs and problems of developing countries,

Noting the magnitude of technological and structural changes in liner shipping since the adoption of the Convention in 1974,

Having reached agreement on certain matters relating to the working and implementation of the Convention as reflected in this resolution,

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*/ Adopted at the 11th (closing) plenary meeting of the resumed session of the Review Conference on the United Nations Convention on a Code of Conduct for Liner Conferences, on 7 June 1991.

GE.91-51081

1. Reaffirms the continuing validity of the United Nations Convention on a Code of Conduct for Liner Conferences;

2. Adopts the following guidelines:

(a) The provisions of the Convention should not be seen as excluding a shipping line which is a container slot/space-charter operator from becoming a member of a liner conference, subject to the provisions of Article 1, paragraph 2, of the Convention. Article 1, paragraph 2, and Article 2, paragraph 11, of the Convention should not be seen as excluding container slot-charter or space sharing arrangements;

(b) The provisions of Article 2 of the Convention apply to the international sea-leg of multimodal transport services;

(c) The provisions of Article 2 of the Convention apply when cargoes are carried through transhipment, including cargoes to and from landlocked countries;

(d) Governments may seek consultations with one another over issues of concern arising from the implementation of the Convention;

(e) A group of national shippers or shippers' organizations from more than one country may participate in the consultations under Article 11 of the Convention on behalf of national shipper interests;

(f) States Contracting Parties may take such measures as are necessary to ensure the implementation of the Convention. Such measures may include consultations involving the appropriate authorities, liner conferences, shipping lines and shippers and shippers' organizations concerned;

3. Invites all States Contracting Parties to strengthen their efforts towards the effective implementation of the Convention, taking into account its objectives and principles;

4. Calls upon liner conferences, shippers, shippers' organizations, States Contracting Parties or their appropriate authorities at the two ends of the trade to which the Convention applies to hold consultations, as and when appropriate, in order to find mutually acceptable solutions to problems relating to the working and implementation of the Convention;

5. Invites all States Contracting Parties which have not yet done so to take the necessary legislative and - as appropriate - other measures to implement the Convention, taking into account its objectives and principles and the above-mentioned guidelines;

6. Urges that the implications for the developing countries of the continuing technological and structural changes which have a bearing on the Convention be discussed between the relevant commercial parties concerned and, where necessary, Governments of States Contracting Parties, on a bilateral, subregional and/or regional basis, with a view to finding satisfactory solutions;

7. Requests UNCTAD and relevant intergovernmental organizations to continue to study these implications within the context of their programmes of work during the 1990s;

8. Requests the Registrar, appointed in accordance with Article 46, paragraph 1, of the Convention, to provide, within available resources, guidance and assistance to Governments, at their request, towards a better understanding and effective implementation of the Convention;

9. Invites all States which have not yet become Contracting Parties to the Convention to consider ratifying or acceding to the Convention;

III. GENERAL COMMITTEE

Rule 10

Composition

1. The officers elected pursuant to rule 6 shall constitute the General Committee. The chairman or another designated representative of any subsidiary organ not represented on the Committee may participate in its proceedings, without the right to vote.

2. If any member of the General Committee is to be absent from one of its meetings, he may designate another member of his delegation to participate and vote in his place. The chairman of any subsidiary organ represented on the Committee may also designate a vice-chairman to participate in the proceedings of the Committee, without the right to vote.

Rule 11

Officers

The President, or in his absence one of the Vice-Presidents designated by him, shall serve as Chairman and, if necessary, the Rapporteur shall serve as Rapporteur of the General Committee.

Rule 12

Functions

In addition to performing other functions specified in these rules, the General Committee shall assist the President in the general conduct of the business of the Conference and, subject to the decisions of the Conference, shall ensure the co-ordination of its work.

IV. SECRETARIAT

Rule 13

Direction of the secretariat of the Conference

On behalf of the Secretary-General of the United Nations, the Secretary-General of UNCTAD shall be responsible for making all the necessary arrangements for the carrying out of the work of the Conference. For that purpose he shall appoint the Director-in-charge of substantive matters, the Secretary of the Conference and such other staff as may be required by the Conference, its committees and other subsidiary organs. The Secretary of the Conference shall act in that capacity at all meetings and shall be responsible for making all arrangements connected with such meetings.

Rule 14

Administrative duties of the secretariat of the Conference

The secretariat of the Conference shall, in accordance with these rules and any pertinent directives of the General Assembly:

(a) Interpret speeches made at meetings;

(b) Make and arrange for the keeping of sound recordings of meetings;

(c) Receive, translate and circulate the documents of the Conference;

(d) Report the proceedings of the Conference in appropriate journals;

(e) Publish and circulate any report of or instrument adopted by the Conference;

(f) Arrange for the custody of the documents and records of the Conference in the archives of the United Nations;

(g) Generally perform all other work that the Conference may require in connection with its proceedings.

Rule 15

Statements by the secretariat

The Secretary-General of the United Nations or the Secretary-General of UNCTAD, or any member of the Secretariat designated by either of them for that purpose, may, subject to rule 21, make statements concerning any question under consideration.

V. OPENING OF THE CONFERENCE

Rule 16

Temporary President

At the opening of the Conference, the Secretary-General of the United Nations, the Secretary-General of UNCTAD, or a member of the Secretariat designated by either, shall preside until the Conference has elected its President.

Rule 17

Decisions concerning organization

On the basis of recommendations emerging from pre-conference consultations, the Conference shall, to the extent possible at its 1st meeting:

(a) Elect its officers and constitute its subsidiary organs;

(b) Make decisions concerning the application of these rules, and adopt any supplementary rules of procedure;

(c) Adopt its agenda, the draft of which shall, until such adoption, be the provisional agenda of the Conference;

(d) Decide on the organization of its work.

VI. CONDUCT OF BUSINESS

Rule 18

Quorum

The President may declare a meeting open and permit the debate to proceed when representatives of at least one third of the Contracting Parties to the Convention participating in the current session of the Conference are present. The presence of representatives of a two thirds majority of the Contracting Parties to the Convention participating in the current session of the Conference shall be required for decisions to be taken on matters of substance.

Rule 19

General powers of the President

1. In addition to exercising the powers conferred upon him elsewhere by these rules, the President shall preside at the plenary meetings of the Conference, declare the opening and closing of each such meeting, direct the discussions, ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions. He shall, subject to these rules, have complete control of the proceedings and over the maintenance of order thereat. The President may propose to the Conference the closing of the list of speakers, a limitation on the time allowed to speakers and on the number of times the representatives of each participant in the Conference may speak on a question, the adjournment of the closure of the debate and the suspension or the adjournment of a meeting.

2. The President, in the exercise of his functions, remains under the authority of the Conference.

Rule 20

Points of order

Subject to rule 40, a representative may at any time raise a point of order, which shall be immediately decided upon by the President in accordance with these rules. A representative may appeal against the ruling of the President. The appeal shall be immediately put to the vote, and the President's ruling shall stand unless overruled by a majority of the representatives present and voting. A representative may not, in raising a point of order, speak on the substance of the question under discussion.

Rule 21

Speeches

1. No one may address the Conference without having previously obtained the permission of the President. Subject to rules 20, 22 and 24 to 27, the President shall call upon speakers in the order in which they signify their desire to speak.

2. All interventions shall be confined to the question before the Conference and the President may call a speaker to order if his remarks are not relevant to the question under discussion.

3. The Conference may limit the time allowed to speakers and the number of times the representatives of each participant may speak on a question. Permission to speak on a motion to set such limits shall be accorded only to two representatives in favour of and to two opposing such limits, after which the motion shall be immediately put to the vote. In any event, the limitations specified in rule 24 shall be observed, and the President shall limit each intervention on a procedural question to a maximum of five minutes. When the debate is limited and a speaker exceeds the allotted time, the President shall call him to order without delay.

Rule 22

Precedence

The Chairman or the Vice-Chairman-cum-Rapporteur of a Main Committee or a representative designated by any other subsidiary organ may be accorded precedence for the purpose of explaining the conclusions arrived at by the organ.

Rule 23

Closing the list of speakers

In the course of a debate, the President may announce the list of speakers and, with the consent of the Conference, declare the list closed. When there are no more speakers, the President shall, with the consent of the Conference, declare the debate closed. Such closure shall have the same effect as closure pursuant to rule 26.

Rule 24

Right of reply

1. Notwithstanding rule 23, the President shall accord the right of reply to the delegation of any State participating in the Conference that requests it. Other delegations may be granted the opportunity to make a reply.

2. Replies made pursuant to the present rule:

(a) Shall be made at the end of the last meeting of the day, or at the conclusion of the consideration of the relevant item if that is sooner;

2. Upon the invitation of the presiding officer of the Conference body concerned and subject to the approval of that body, such observers may make oral statements on questions in which they have special competence.

Rule 66

Written statements

Written statements submitted by the designated representatives or observers referred to in rules 60 to 65 shall be distributed by the secretariat to all delegations in the quantities and in the languages in which the statements are made available to the secretariat for distribution, provided that a statement submitted on behalf of a non-governmental organization is on a subject in which the organization has a special competence and is related to the work of the Conference.

XIII. SUSPENSION OF THE RULES OF PROCEDURE

Rule 67

Method of suspension

Any of these rules may be suspended by the Conference provided that 24 hours' notice of the proposal for the suspension has been given, which may be waived if no representative objects. Any such suspension shall be limited to a specific and stated purpose and to a period required to achieve that purpose.

Rule 68

Other procedural matters

Any procedural matter not covered by these rules shall be settled in accordance with the rules and practices of the General Assembly.

APPENDIX

Declaration incorporating the "Gentleman's Agreement" reached by the Informal Consultations on 1 November 1990 concerning the mandate of the Review Conference

The mandate of the "United Nations Review Conference on the Convention on a Code of Conduct for Liner Conferences", in accordance with Aritcle 52, paragraph 1, of the Convention, is to review the working and implementation of the Convention and to consider and adopt appropriate amendments and/or other instruments, leaving unaltered the fundamental objectives and basic principles of the Convention as contained in the Convention and its annex.

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Statement to be placed on record by the Senior Legal Adviser in connection with the above Declaration

Article 52, paragraph 1 of the Convention states that:

> "A Review Conference shall be convened by the depositary five years from the date on which the present Convention comes into force to review the working of the Convention, with particular reference to its implementation, and to consider and adopt appropriate amendments."

The Conference, in carrying out its mandate as elaborated above, should give attention to the meaning of the words "review", "working", "implementation" and "appropriate amendments", which in the view of the secretariat set the scope of the work of the Review Conference and the manner in which it should be carried out.

Notes

1/ In these rules of procedure, reference to the "Convention" means the Convention on a Code of Conduct for Liner Conferences concluded on 6 April 1974.

2/ Other organizations that have a relationship agreement or an established relationship with the United Nations, such as the International Atomic Energy Agency, the World Tourism Organization and the General Agreement on Tariffs and Trade.

10. Requests the Secretary-General of the United Nations to convene the next Review Conference in accordance with the provisions of Article 52 of the Convention;

11. Instructs the depositary to seek the views of all States entitled to attend the next Review Conference in preparing the relevant documentation for such Conference;

12. Calls upon all States entitled to attend the next Review Conference to contribute, as appropriate, to the preparation for such Conference to be undertaken by the depositary.

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(b) Shall be limited to two per item for any delegation at a given meeting, the first of which is not to exceed five minutes and the second three minutes.

Rule 25

Adjournment of debate

A representative may at any time move the adjournment of the debate on the question under discussion. Permission to speak on the motion shall be accorded only to two representatives in favour of and to two opposing the adjournment, after which the motion shall, subject to rule 28, be immediately put to the vote.

Rule 26

Closure of debate

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his wish to speak. Permission to speak on the motion shall be accorded only to two representatives opposing the closure, after which the motion shall, subject to rule 28, be immediately put to the vote.

Rule 27

Suspension or adjournment of the meeting

Subject to rule 40, a representative may at any time move the suspension or the adjournment of the meeting. No discussion on such motions shall be permitted and they shall, subject to rule 28, be immediately put to the vote.

Rule 28

Priority of motions

The motions indicated below shall have priority in the following order over all proposals or other motions before the Conference:

(a) To suspend the meeting;

(b) To adjourn the meeting;

(c) To adjourn the debate on the question under discussion;

(d) To close the debate on the question under discussion.